

1 Steve W. Berman (*Pro hac vice*)
2 Craig R. Spiegel (SBN 122000)
3 HAGENS BERMAN SOBOL SHAPIRO LLP
4 1918 Eighth Avenue, Suite 3300
5 Seattle, WA 98101
6 Telephone: (206) 623-7292
7 Facsimile: (206) 623-0594
8 steve@hbsslaw.com
9 craig@hbsslaw.com

6 Bruce L. Simon (SBN 96241)
7 Benjamin E. Shiftan (SBN 265767)
8 PEARSON, SIMON & WARSHAW, LLP
9 44 Montgomery Street, Suite 2450
10 San Francisco, CA 94104
11 Telephone: (415) 433-9000
12 Facsimile: (415) 433-9008
13 bsimon@pswlaw.com
14 bshiftan@pswlaw.com

11 *Class Counsel for Jenkins and Consolidated*
12 *Action Plaintiffs*

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 OAKLAND DIVISION

16 IN RE: NATIONAL COLLEGIATE
17 ATHLETIC ASSOCIATION ATHLETIC
18 GRANT-IN-AID CAP ANTITRUST
19 LITIGATION

20 This Document Relates to:

21 ALL ACTIONS EXCEPT

22 *Jenkins v. Nat'l Collegiate Athletic Ass'n*
23 Case No. 14-cv-0278-CW

Case No. 4:14-md-02541-CW

**DECLARATION OF CHRISTOPHER
A. O'HARA IN SUPPORT OF CLASS
PLAINTIFFS' MOTION FOR
IMPOSITION OF APPEAL BOND
AGAINST OBJECTOR APPELLANT**

COMPLAINT FILED: March 5, 2014

1 I, CHRISTOPHER A. O'HARA, declare as follows:

2 1. I am a member in good standing of the State Bars of Washington and Arizona. I am a
3 partner at Hagens Berman Sobol Shapiro LLP, Lead Counsel in the above captioned case. I make
4 this declaration of my own personal knowledge, and, if called upon to do so, could and would testify
5 competently to the facts that it contains.

6 2. I submit this declaration to detail my experience in fielding and responding to Class
7 Members' numerous inquiries regarding the settlement of this matter and more specifically, the
8 timing of receiving settlement checks, as well as inquiries about the appeal by Class Member, Darrin
9 Duncan.

10 3. At Hagens Berman I am in charge of overseeing class notice and claims
11 administration and am involved in this capacity in most of the firm's class action settlements. In
12 this capacity I have a role in corresponding with Class Members and answering Class Member
13 inquiries about the settlements. For the instant settlement of the NCAA Grant-In-Aid ("GIA") Cap
14 Antitrust Litigation, I have been the primary point of contact for our firm in communicating with
15 Class Members regarding the settlement. In my experience, the GIA Class has been one of the most
16 engaged Classes with which I have ever worked. Throughout the course of the settlement, I have
17 heard over one thousand Class Members, asking questions about the settlement process and progress.
18 Given the size of the estimated individual recoveries, Class Members have especially shown great
19 interest in learning when they could expect to receive their settlement checks.¹

20 4. Prior to Mr. Duncan filing his Notice of Appeal, the Home page of the settlement
21 website (found at <http://www.grantinaidsettlement.com/>) had indicated that the Settlement
22 Administrator expected to begin mailing settlement checks to eligible Class Members beginning in
23 February 2018. Following Mr. Duncan's Notice of Appeal, the Home page of the website was
24 revised with the following update:

25 On December 6, 2017, the Court entered an Order granting Final
26 Approval for the Settlement. Unfortunately, there was one objector to
the Settlement who has filed an appeal from the Final Approval Order,

27 ¹ The Settlement Administrator estimates that the average check for a Class Member who is
28 eligible for a recovery over 4 years is nearly \$6,000.00.

1 which means distributions to Class Members cannot begin until that
2 appeal is resolved. It is now in the hands of the U.S. Court of Appeals
3 for the Ninth Circuit. We are working hard to resolve the appeal as
4 quickly as possible so we can get distributions to all eligible Class
5 Members, but at this time there is no estimate as to how long the
6 resolution of the appeal may take. We do apologize for the delay and
7 truly appreciate your patience with this process. We will keep you
8 informed of new updates as we know them.


9 5. Throughout January of this year, and especially as we've moved into February, the
10 level of inquiries from Class Members regarding the exact timing of the check mailing has grown
11 tremendously. Over the past month or so, I estimate that I have heard from an average of
12 approximately 8 to 12 Class Members per day, either asking if there was an update on when the
13 check mailing would begin or indicating that they had heard about the appeal and asking how long
14 the appeal would take to resolve. My response to Class Members, either in emails or over the phone,
15 has typically included information that (1) the check mailing cannot begin until the appeal is
16 resolved and that (2) the appellate process can be slow and unpredictable, making it difficult to
17 estimate how long the resolution of the appeal may take, and that (3) it could take anywhere from a
18 few months to a year and a half or more to resolve.

19 6. The response from Class Members to this information has been extremely negative,
20 with many dozens of Class Members expressing frustration and disappointment with the delay in
21 receiving their settlement checks. Many Class Members have asked what the objection and appeal
22 are about and for those who have asked, I have told them that the primary objection is a claim that
23 Class Counsel are taking too much out of the settlement in attorneys' fees. I have not a heard a
24 single Class Member express support for this view, even after I tell them how much the Court
25 awarded in fees. In fact, quite to the contrary, most Class Members readily express their thanks and
26 gratitude for the work of our firm in securing the results of the settlement.

27 7. As examples, attached as Exhibits 1 through 6 are true and correct copies of email
28 exchanges I have had with Class Members over the past few weeks, in which these Class Members
express frustration and disappointment with the delay caused by the appeal. Certain identifying
information has been redacted from these emails to protect the privacy of these Class Members.

1 I declare, under penalty of perjury of the laws of the United States, that the foregoing is true
2 and correct to the best of my knowledge.

3 Executed this 21st day of February 2018, at Seattle, WA.

4
5
6 
CHRISTOPHER A. O'HARA